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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,495	08/31/2001	Yuri Kazakevich	00167-376001	2636

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Smith & Nephew, Inc.  
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EXAMINER

CRANE, SARA W

ART UNIT PAPER NUMBER

2811

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/944,495

Applicant(s)

KAZAKEVICH, YURI

Examiner

Sara W. Crane

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) 1-31 and 66-68 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 48-50 is/are allowed.
- 6) ☒ Claim(s) 32-47 and 51-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Claims 48-50 are allowed.

Claims 1-31 and 66-68 are non-elected.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 32-47 and 51-65 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 32, it is not clear how the claim language relates to structure taught in the specification. In particular, it is not clear what is meant by "distal end," and the "encasement that includes an aperture," as in the amended claim language. The examiner understands "distal end" to describe the insertion end of the instrument. (as in lines 20-23 of page 1 of the specification). The "optical element" (which has the distal end) is apparently intended to describe a fiber or fiber bundle, as associated with arrow 6a in figure 1, for example. So the "distal end" of the fiber or fibers would be at right hand side of figure 1 (?), But then the "aperture" is associated with the semiconductor light source encasement, which surrounds the semiconductors themselves (as in figure 2A, or on the left hand side of figure 1). So it is not clear how "each aperture" can receive "an associated portion of the distal end of the optical element." It would appear that "distal end" cannot describe the right hand side of the fiber bundle in figure 1. But it

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cannot describe the left hand side of the bundle either, because there are many ends on the left hand side, one associated with each of the light emitting devices in the array.

(Unless "distal end" is meant as a general term to describe all of the ends in some common sense ??) Alternatively, perhaps "aperture" is intended to describe the hole at 14 in figure 1, where the "encasement" is the box enclosing the entire light emitting array. But then the claim would require a plurality, not of light emitting devices in an array, but a plurality of devices where figure 1 shows only a single device. So some clarification is needed regarding claim 32. Perhaps the problem is that the examiner does not understand the "output for receiving light from the optical element, the output configured to be received by the endoscope." Does this mean the emitted light is the output received by the endoscope? Or is some sort of mechanical connection implied? Is there an example of this shown in the figures? Claim 60 also uses the term "distal end," so the examiner would question the meaning of the term in this claim as well. (Which end is the distal end?) Claim 63 also has the "output for receiving light from the optical element," so here again the examiner is unsure of how to conduct a search, without some clarification.

Haefele et al. and Kazakevich show endoscope systems with LEDs, each having the light from the LEDs coupled to one end of the device by means of optical fibers, as in the invention of the specification. Gertsenshten shows an optical element having a phosphor layer, disclosed for use in an endoscope system.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Crane, whose telephone number is (571) 272-1652.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist, whose telephone number is (571) 272-1562.

A handwritten signature in black ink, appearing to read "Sara W. Crane". The signature is fluid and cursive, with the first name "Sara" being more prominent.

Sara W. Crane  
Primary Examiner  
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